

REMARKS

The Examiner's indication of allowable subject matter of claims 16-17 is noted with appreciation.

Claims 12-31 are pending in the application. Claims 18 and 21 have been amended only to improve claim language. Claims 22-31 have been added to provide Applicants with the scope of protection to which they are believed entitled. No new matter has been introduced through the foregoing amendments.

The finality of the last Office Action should be withdrawn for at least the following reason: *Suolahti* is disqualified as prior art applicable against claims 14-15 in the 35 U.S.C. 103(a) rejection manifested in paragraph 5 of the Final Office Action in light of the following facts:

1. *Suolahti* qualifies as prior art only under 35 U.S.C. 102(e); and
2. The instant application was filed after November 29, 1999, the effective date of amended 35 U.S.C. 103(c); and
3. The present invention and *Suolahti* were, at the time the instant invention was made, owned by the same company as evident from the attached Statement of Common Ownership.

35 U.S.C. 103(c) then applies to disqualify *Suolahti* as prior art usable in an obviousness rejection under 35 U.S.C. 103(a). It should be noted that the attached Statement of Common Ownership alone is sufficient evidence to establish common ownership at the time the instant invention was made. See MPEP 706.02(1)(2).

Accordingly, Applicants respectfully request that the 35 U.S.C. 103(a) rejections relying on *Suolahti* be withdrawn. Since claims 14-15 were not properly rejected in the Final Office Action, the finality of said action should be withdrawn.

The finality of the last Final Office Action should be withdrawn also due to the following supposed errors found in the Examiner's rationale.

As to independent claim 12, Examiner stated that it would have been obvious to modify the device of *Humphrey* (U.S. Patent No. 4,706,443) with "free rotating" rollers as taught by *Moore* (U.S. Patent No. 5,155,970) and the wrapping track as taught by *Paavola* (U.S. Patent No. 5,875,616). Applicants respectfully disagree at least with respect to the propriety of the Examiner's proposed combination of *Humphrey* and *Moore*.

First, *Humphrey* teaches away from having freely rotatable or idler rollers in his system. See the “Background of the Invention” section of the *Humphrey* patent where a conventional system (FIG. 8 of *Humphrey*) is heavily criticized for its use of idler rollers 82 and 84. *Humphrey* explicitly teaches that disadvantages of the conventional system can be avoided by driving the pre-stretching rollers with a motor so that the speed of the rollers can be controlled. See the description of FIG. 9 of *Humphrey* in column 11, especially lines 22-25 and 44-45, of the patent. Thus, the *Humphrey* reference, when considered as a whole, would have led a person of ordinary skill in the art away from the claimed structure which utilizes freely rotatable rollers as pre-stretching rollers.

Second, *Moore* does not teach or suggest freely rotating rollers. The Examiner allegedly found the feature in column 3, lines 27-37 which is reproduced below for the Examiner’s convenience of review:

“As embodied herein, the means for dispensing the film web 22 onto the load 20 includes a roll carriage 28 having a film web supply roll 30, prestretch rollers 32, and a guide roller 34. Guide roller 34 may include a load cell for detecting the force on the film web and transmitting that information to the film dispensing mechanism to compensate for the variation in film demand by a noncircular load. In use, the film web 22 extends from the film web supply roll 30, through the group of prestretch rollers 32, about the guide roller 34, and onto the load 20.”

Applicants have carefully reviewed this passage and still failed to locate the alleged teaching of “freely rotating” rollers. FIGs. 1-2 of *Moore* do not convey with reasonable clarity to those skilled in the art that rollers 32 of *Moore* are freely rotatable. In addition, *Moore* appears to teach the opposite, i.e., the rollers 32 are being driven, rather than being freely rotatable as presently claimed. See column 4, line 31 of *Moore*. Accordingly, Applicants must conclude that, contrary to the Examiner’s allegation, *Moore* does not teach or suggest freely rotating pre-stretching rollers.

Third, since the Examiner’s proposed combination of *Moore* and *Humphrey* is improper, the combination of *Humphrey* and *Paavola*, even if it was proper, would still fail to teach or disclose all limitations of independent claim 12, i.e., the freely rotatable pre-stretching rollers and the feature that a drawing **velocity** and tension of said film from said second pre-stretching roller are maintained substantially **constant** regardless of variations in said draw and velocity of said film in relation to said film dispenser. Note FIG. 9 of *Humphrey* where it is disclosed that the *Humphrey*

pre-stretching rollers must have a varying speed in at least the marginal operating zones designated as “increased motor speed” and “slows motor speed.”

For the overwhelming reasons advanced above, Applicants respectfully submit that the 35 *U.S.C. 103(a)* rejection of claim 12 is erroneous and should be withdrawn.

As to claim 18, the Examiner failed to specify how the applied references in combination teach or disclose the claimed **helical** spring. Hydraulic cylinder is not *structurally* readable on helical spring.

As to claim 19, the Examiner failed to specify how the applied references in combination teach or disclose the claimed feature that the first and second pre-stretching rollers contact **different sides** of the film. Note FIGs. 2-4 of *Humphrey* where it is depicted that pre-stretching rollers 18 and 32 contact the same side of the film.

As to claims 20-21, the Examiner failed to specify how the applied references in combination teach or disclose the claimed feature of a **gear transmission**. Note, in *Humphrey* the pre-stretching rollers are connected by driving belt 24 (FIG. 1 of *Humphrey*).

New independent claim 22 is similar to original claim 1 and is clearly patentable over the applied art of record for the reason advanced in the last Amendment, i.e., the applied references fail to disclose, teach or suggest freely rotatable rollers arranged in the presently claimed manner. Claims 23-29 depend from claim 22, and are considered patentable at least for the reason advanced with respect to claim 22. Claims 23-29 are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art.

For example, as to claim 29, the references, *as applied by the Examiner*, fail to disclose, teach or suggest a helical spring having a **varying** spring force. This feature finds solid support in page 10, lines 8-9 of the specification, i.e., a spring having a spring constant should have a varying spring force depending on an amount of deformation of said spring. In contrast, *Humphrey* specifically requires a constant force applying mechanism (cylinder 38). See column 6, line 59 of *Humphrey*.

New independent claim 30 is clearly patentable over the applied art of record because the art fails to disclose, teach or suggest that *all* of said first and second pre-stretching rollers and said

deflecting roller are **idler rollers**, and **rotational movements of said idler rollers are solely caused by said draw of said film**. The applied references require a motor to drive at least one of the rollers and therefore the prior art rollers are not idler rollers, and rotational movements of the prior art rollers are caused not only by pulling the film but also by driving torque of said motor.

Claim 31 is patentable not only by virtue of its dependency but also on its own merit as the applied references fail to disclose, teach or suggest a film dispenser **consisting of** said frame, said film roll, said first and second pre-stretching rollers, said pendulum roller and said deflecting roller.

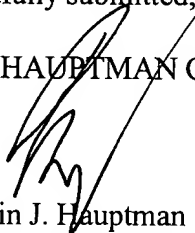
Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

To the extent necessary, a petition for an extension of time under *37 C.F.R. 1.136* is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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